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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,188	09/24/2003	Martin D. Wojcik	P/4369-7	2615
2352	7590	10/25/2005	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			LYLES IRVING, CARMEN V	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,188

Applicant(s)

WOJCIK, MARTIN D.

Examiner

Carmen Lyles-Irving

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003 and 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/24/03 & 07/6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

Foreign Patent Document DE 1,069,063 has not been considered because a translation has not been provided. Additionally, the specification does not include a concise explanation of the relevance of the reference, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. The reference has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nandram et al (U.S. PG Pub. 2004/0237977) in view of and Saffir (U.S. Patent No. 2,804,078). Regarding claim 1, Nandram teaches a cigarette comprising a rod-shaped tobacco element having a first end and a second end; a first filter element connected to the first end of the tobacco element; a second filter element connected to the second end of the tobacco element (Figure 1) the wrapper capable of being torn or cut at the mid-point along the tobacco element between the filter elements (page 2, para. 0030, lines 5-10). Nandram fails to teach a circumferentially extending first tear line along the

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mid-point of the tobacco element and the tubular wrapper having a second tear line in a region of the first end of the tobacco element so as to facilitate tearing of the wrapper and removal of the first filter element from the tobacco element. However, Saffir teaches the use of tear lines to separate the filter from the tobacco rod (column 2, lines 32-38). It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Nandram with the teachings of Saffir to design a cigarette with tear lines allowing the user to divide the cigarette along the tobacco rod midpoint in order to form two shorter length filtered cigarettes or to facilitate the removal of the first filter element from the tobacco element to form a longer length filtered cigarette. Accordingly, claim 1 is rejected.

Regarding claim 3, Saffir teaches the tear line is formed by perforations in the wrapper (column 2, lines 32-36). Accordingly, claim 3 is rejected.

Regarding claim 5, Saffir teaches tear lines in the tubular wrapper to facilitate separating contact between the respective tobacco and filter containing portions of the cigarette. Although Saffir's drawing shows a cigarette with filters on one end, Saffir does teach that the entire filter may be removed from the cigarette at will leaving the cigarette filterless (column 2, 36-38). The applicant in the instant application teaches in claim 5 removing his second filter element, thereby leaving his cigarette filterless. As a result, it would have been obvious to one of ordinary skill in the art to modify the Saffir teaching to create a cigarette where both a first and a second filter element may be removed at the location of a tear line to create a filterless cigarette. Accordingly, claim 5 is rejected.

Regarding claim 6, the combination of Nandram and Saffir, as applied to claim 1 above, teaches a cigarette having a rod-shaped tobacco element with a first end and a second end, a first filter element attached to the first end of the tobacco element and a second filter element attached to the second end of the tobacco element, and a tubular wrapper having a circumferentially extending first tear line in a region of the tobacco element midway between the first and second filter elements, and a second circumferentially extending tear line in a region of the first end of the tobacco element. It would have been obvious at the time of the invention that the teachings of Nandram and Saffir were capable of teaching a method for using a cigarette having a rod-shaped tobacco element with a first end and a second end, a first filter element attached to the first end of the tobacco element and a second filter element attached to the second end of the tobacco element, and a tubular wrapper having a circumferentially extending first tear line in a region of the tobacco element mid way between the first and second filter elements, and a second circumferentially extending tear line in a region of the first end of the tobacco element, the process comprising the step of selectively tearing the tubular wrapper at one of the first tear line and the second tear line so as to either break the tobacco element in half or remove the first filter element. Accordingly, claim 6 is rejected.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nandram and Saffir, as applied to claim 1 above, and further in view of Bauer et al (U.S. Patent No. 2,389,104) and www.dictionary.com (website last undated Jan. 26, 2005).

Nandram and Saffir fail to teach the tear line formed is formed by indentations in the

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wrapper. However, Bauer teaches a cigarette with disk with a serrated or toothed periphery. When pressure is applied to the wrapper, the disk will serrate or pierce the wrapper and weaken it so that it will readily separate along this line (page 2, column 2, lines 61-66). Serrate or serrated are synonyms for indented as evidenced by www.dictionary.com. Indentation is the condition of being indented as evidenced by www.dictionary.com. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have created a cigarette with tear lines formed by indentations as a means of tearing the cigarette into cigarettes of various lengths. Accordingly, claim 2 is rejected.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 4206508; DE 4414605.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen Lyles-Irving whose telephone number is (571) 272-2945. The examiner can normally be reached Monday through Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLI
09/29/2005


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